
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

EDWARD MURDOCK and SHERYL
MURDOCK,

Plaintiffs,

v.

MAVERICK TURTLE CREEK
APARTMENTS and NATIONAL CREDIT
SYSTEMS,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:23-cv-00866-JNP-JCB

District Judge Jill N. Parrish

Plaintiffs Edward Murdock and Sheryl Murdock filed a pro se complaint seeking damages from Defendants Maverick Turtle Creek Apartments and National Credit Systems for alleged intentional infliction of emotional distress and violations of the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. ECF No. 7. Their complaint was referred to Magistrate Judge Jared C. Bennett under 28 U.S.C. § 636(b)(1)(B).

National Credit Systems filed an answer and subsequently filed a motion to dismiss or transfer venue. ECF Nos. 13, 18. Judge Bennett prepared a Report and Recommendation that the court (1) convert National Credit Systems' procedurally improper motion to dismiss into a motion for judgment on the pleadings; (2) sua sponte grant the motion for judgment on the pleadings as to Plaintiffs' claims of intentional infliction of emotional distress and violations of the Fair Credit Reporting Act; (3) deny the motion as to Plaintiffs' claims under the Fair Debt Collection Practices Act; and (4) determine venue proper in the District of Utah. ECF No. 21. Judge Bennett's Report

and Recommendation notified the parties that a failure to file a timely objection to the recommendation could waive any objections to it. No objection was filed in the time allotted.

Because the parties did not object to the Report and Recommendation, they have waived any argument challenging its recommendations. *Paciorek v. Church of Jesus Christ of Latter-Day Saints*, No. 2:23-cv-00904, 2024 WL 2818881 (D. Utah June 3, 2024). And nothing indicates that the interests of justice demand excusing waiver here. *Id.*

But even if the court excused waiver and reviewed for clear error, the court would conclude that Judge Bennett's analysis is not clearly erroneous. *See Zloza v. Indus. Co.*, No. 4:23-cv-17, 2023 WL 2760784, at *1 (D. Utah Apr. 3, 2023) (explaining that the court reviews unobjected-to portions of a magistrate judge's report and recommendations for clear error). Thus, the court adopts the Report and Recommendation in full.

Accordingly:

1. The court ADOPTS IN FULL the Report and Recommendation, ECF No. 21.
2. The court converts National Credit Systems' motion to dismiss or transfer venue into a motion for judgment on the pleadings. The court then GRANTS this motion as to Plaintiffs' claims for intentional infliction of emotional distress and violations of the Fair Credit Reporting Act, and DENIES this motion as to Plaintiffs' claims under the Fair Debt Collection Practices Act.

Signed October 21, 2024.

BY THE COURT



Jill N. Parrish
United States District Court Judge